



Pursuant to Article 10 of the Rules on the procedures for public telecommunications network and public telecommunications services license issuance and registry keeping (*Official Gazette of RS*, no. 29/06) and Article 18, item (11) of the Statute of the Republic Telecommunication Agency (*Official Gazette of RS*, no. 78/05),

The Managing Board of the Republic Telecommunication Agency, on its session held on 21 March 2008, adopted the following

## **I N S T R U C T I O N S**

### **ON THE PUBLIC BIDDING PROCEDURE FOR LICENSE ISSUANCE**

#### **Subject**

#### **Article 1**

These Instructions closely regulate the public bidding procedure for public telecommunication networks and public telecommunication services license issuance (individual license).

#### **Licensee**

#### **Article 2**

The license shall be issued to a national or foreign legal or natural entity who has participated in the public tender and/or public auction, stipulated herein, fulfilling the conditions stipulated under the Telecommunications Law (*Official Gazette of RS*, nos. 44/03 and 36/06, hereinafter: Law), regulations adopted thereupon, including the Agency general enactments, as well as the technical conditions, standards referred to in these regulations, and who has submitted the most favourable bid in terms of economic, technical, experiential and other conditions, pursuant to the public bidding criteria published within the public announcement.

#### **Types of telecommunication services for which a license may be issued**

#### **Article 3**

Types of telecommunication services for which the license may be issued are specified by the Rules on the types of public telecommunication services for which a license is required (*Official Gazette of RS*, no. 29/06).

## **Rules pertinent to license issuance procedure implementation**

### **Article 4**

When implementing the license issuance procedure, the Agency shall:

1. Provide for the public bidding to be available to all interested legal and natural entities under equal conditions, by publishing a public announcement;
2. Set out and publish the assessment criteria which have to be non-discriminatory, impartial and measurable and be adequate for the activities or services for which the license is granted;
3. Determine which license applicants fulfil the conditions stipulated under the Law, regulations adopted thereupon, including the Agency general enactments, as well as the technical conditions, standards referred to in these regulations;
4. Reach the decision on selecting the most favourable bid on the grounds of economic, technical, experiential and other conditions of significance for the development of telecommunications in the Republic of Serbia, specified in the public announcement;
5. Reach the decision on selecting the most favourable bid no later than four months following the deadline for the application submission.

### **Initiation of license issuance procedure**

### **Article 5**

The license issuance procedure shall be initiated by the decision of the Agency Managing Board, which shall obligatorily include the following:

1. Subject of the license;
2. Number and period for which the license is issued, minimum conditions for license issuance and minimum (opening) amount of the one-off license fee, pursuant to the decision of the ministry responsible for the telecommunications affairs;
3. Way in which the selection of the most favourable bid is to be carried out, by applying the first phase of the public bidding through public tender, or by applying also the second phase which, in addition to the public tender, includes the implementation of public auction procedure as well;
4. Deadlines for application and/or bid submission, deadlines for each phase of the procedure, and deadline for the selection of the most favourable bid;
5. Instruction for drafting the public announcement and bidding documentation necessary for the implementation of the tender procedure;
6. Other information and activities necessary for the implementation of the tender procedure.

### **Public announcement and contents thereof**

### **Article 6**

The Agency shall provide for the public bidding to be available to all interested legal and natural entities under equal conditions, by publishing the public announcement.

The public announcement shall contain, in particular, the following:

1. Subject of the license;
2. Way in which the selection of the most favourable bid is to be carried out, set out under the decision on the initiation of license issuance, referred to in Article 5 herein;
3. Deadline for application and/or bid submission;
4. Mandatory conditions and criteria for participating in the public bidding procedure;
5. Way of bid submission (under code or full name of the bidder);
6. Notification on date, time and place of opening of the received bids;
7. Name of the person in charge of giving all information relevant for the license issuance procedure, which shall be provided in written, along with the deadline for providing the information;
8. Description of telecommunications services which are the subject of the public bidding procedure, along with the area and location of relevant service provision;
9. Period for which the license is issued;
10. Minimum (opening) amount of the one-off license fee, payable at license issuance;
11. Criteria for the most favourable bid selection and the way the criteria are to be applied, as well as the limitations taken into consideration in bid selection;
12. Information on the place and deadline for the applicants to take over the bidding documentation, as well as the information on the amount and manner of payment of the application processing fee and bidding documentation acquisition fee;
13. Information on date, time and place of the opening of the received bids;
14. Note indicating that a bid which does not fulfil all the conditions set out in the public announcement and/or bid which is not compliant with the bidding documentation, shall not be accepted;
15. Note indicating that the bid is to be submitted by post or in person, consisting of one original copy and a specified number of photocopies, in closed envelope, bearing a code or full name and seat of the bidder and the title of the relevant public bidding procedure.

The public announcement shall be published in the *Official Gazette of RS* and at least in one widely available international publication and at least one widely available national medium, in Serbian and English language.

### **Language of the tender procedure and currency of the bidding documentation and bid**

#### **Article 7**

The language of the public bidding procedure shall be Serbian language.

The values in the bidding documentation and bid may be indicated in dinars and/or a foreign currency, in which event it shall be indicated that the calculation in dinars will be made according to the middle exchange rate of the National Bank of Serbia applicable on the day the bids are opened.

### **Deadline for bid submission**

#### **Article 8**

The deadline for bid submission may not be earlier than 45 days nor later than 90 days as of the day the public announcement has been published in the *Official Gazette of the Republic of Serbia*.

## **Bidding documentation**

### **Article 9**

Bidding documentation shall be set out by the Agency Managing Board, according to the license subject for which issuance the public bidding procedure is being carried out.

Bidding documentation shall be clear and comprehensible and shall include all elements necessary for preparing a high quality bid.

The Agency shall specify the conditions stipulated under the Law, regulations adopted thereupon, including the Agency general enactments, as well as the technical conditions and standards referred to in these regulations, which the bidders need to fulfil, providing the evidence of the fulfilment

In view of the subject of the public bidding, the bidding documentation shall contain, inter alia, the following:

1. Decision on initiating the license issuance procedure;
2. Mandatory conditions for participation;
3. Invitation to bid and the manner of bid submission;
4. Technical, technological, financial, spatial and human resource requirements regarding the subject of the public bidding;
5. Criteria for the selection of the most favourable bid;
6. Other elements.

## **Manner of bid submission**

### **Article 10**

The bid shall be submitted in one original copy and a specified number of photocopies, in a closed envelope, bearing a code or full name and seat of the bidder and the title of the relevant public bidding procedure, by post or in person, with “do not open without the Commission” warning written on the envelope.

## **Public bidding procedure commission**

### **Article 11**

The Agency Managing Board shall appoint a public bidding procedure commission (hereinafter: Commission).

The Commission shall consist of at least five members, one of them being the president of the Commission, with appropriate professional knowledge in the area which is the subject of the public bidding.

One of the members of the Commission shall be a graduate lawyer.

## **Tasks of the Commission**

### **Article 12**

The tasks of the Commission shall be to:

1. Open the bids publicly;
2. Assess which of the bidders fulfil the mandatory conditions and other requirements stipulated in the public announcement and bidding documentation;
3. Perform a professional evaluation of the bids;
4. Keep minutes on bid opening;
5. Submit the minutes on bid opening to the bidders no later than eight days following the day of bid opening;
6. Prepare a report and submit it to the Agency Managing Board.

## **Bid opening procedure**

### **Article 13**

The bid opening shall be performed by the Commission.

In the bid opening, the Commission shall determine the following:

1. Number of received bids;
2. Names of the present authorised representatives of the bidders;
3. If the relevant public bidding is clearly indicated on the envelopes;
4. If the bids have been submitted in timely manner; and
5. The order in which the bids have been received.

Only the bids submitted in timely manner shall be taken into consideration;

Bids submitted after the submission deadline shall not be taken into consideration and shall be sent back to the bidder unopened.

The commission shall keep minutes on the bid opening procedure, which shall be an integral participation of the Commission report on the carried out public bidding procedure.

## **Responsibilities of the president of the Commission**

### **Article 14**

The president of the Commission shall open the bids at place and time specified in the public announcement, according to the order in which they have been received, which shall be indicated on the bids.

The president of the Commission shall read out the code or the name and address of the bidder who submitted the bid and other elements of significance for consideration of the bids.

Ta the bid opening, it shall be determined whether the bid has been duly signed, the number of parts it consists of and whether all evidence of fulfilment of the conditions stipulated in the public announcement and bidding documentation has been provided.

The president of the Commission shall immediately enter in the minutes the read out information on the bidder and the bid.

During the bid opening, the president of the Commission shall clearly mark with the signature all parts of the bid.

Once all received bids have been opened and read out, and prior to the end the bid opening procedure, the president of the Commission shall invite all present bidders to give any remarks they may have in regard to the bid opening procedure. The remarks shall be entered in the minutes.

### **Minutes on bid opening**

#### **Article 15**

The commission shall keep minutes on bid opening on a predefined form, containing the following:

1. Information on the subject of the public bidding procedure for license issuance;
2. Names of the members of the Commission and the minutes keeper;
3. Names of the authorizes representatives of the bidders present and other persons present and their capacity;
4. Place, date and opening time of the bid opening procedure;
5. Order in which the received bids are opened, according to the time of their arrival;
6. Reference number of the bid;
7. Offered amount of the one-off license fee, depending on the phase of the public bidding procedure;
8. Decision on carrying out the second phase of the public bidding procedure provided the conditions therefor have been met;
9. Remarks of the members of the Commission of any flaws a bid may have;
10. Any remarks the authorized representatives of bidders may have;
11. Signatures of the president and member of the Commission;
12. Signatures of the present authorized representatives of bidders and the number of proxy;
13. Closing time of the bid opening procedure.

In case a present authorized representative of a bidder refuses to sign the minutes, it shall be entered in the minutes along with the reasons for such refusal.

The Commission shall send the minutes to all bidders no later than eight days. The Commission may hand a copy of the minutes to an authorized representative of the bidder present at the opening of the bids immediately after the closing of the bid opening.

In case no bids have been received by the bid submission deadline, this shall also be entered into the minutes.

## **Consideration and evaluation of bids**

### **Article 16**

Upon the carried out procedure of the public opening of the received bids, the Commission shall consider the submitted bids, determine whether they fulfil the conditions of the public bidding procedure and evaluates the bids according to the criteria of the public bidding set out in the bidding documentation and public announcement.

Upon the consideration and evaluation of the submitted bids, in case the license issuance procedure is carried out by applying one phase, that is exclusively by applying public tender procedure, the Commission shall determine which is the best bid, according to the criteria of the public bidding.

Before the procedure of consideration, evaluation and bid comparison begins, the Commission may request certain clarifications from a bidder as regards the bid, which may not be such as to influence the contents of the bid.

In the procedure of bid consideration and evaluation, the Commission shall be guided exclusively by the criteria stipulated by the Law, general enactments of the Agency and bidding documentation.

## **Public auction procedure**

### **Article 17**

In case it is envisaged under the decision on initiating the license issuance procedure to carry out the procedure by applying two phases, involving, in addition to the public tender procedure, a public auction procedure as well, a more specific procedure regulating in detail the carrying out of the public auction procedure to follow the completed public tender procedure, shall be an integral part of bidding documentation.

The public tender procedure taking place before the public auction procedure shall be considered successful in case at least one bid has been submitted by participants in the public bidding, in which case the license issuance procedure shall be concluded with the first phase.

In case the number of bids submitted by the participants in the public bidding exceeds the number of licenses issued by at least one, a public auction procedure may be carried out.

The decision on carrying out the public auction procedure shall include in particular: exact time, place and other elements significant for the public auction to be held, and it shall be publically announced in timely manner.

## **Commission Report**

### **Article 18**

The Commission shall submit the report on the carried out public bidding procedure to the Chairman of the Agency Managing Board for further procedure.

In case the license issuance procedure is carried out by applying one phase, that is exclusively by applying public tender procedure, the report referred to in paragraph 1 herein shall also include the proposal to award the license to the most favourable bidder.

The Commission shall make the report referred to in paragraph 1 herein, within the timeframe set out in the decision on initiating the license issuance procedure.

The report shall include, in particular, the following:

1. Subject of the public bidding procedure;
2. Minutes on the opening of the bids;
3. Minutes on carrying out the public auction procedure, if applicable;
4. Name of the bidder whose bid has been rejected and the reasons for rejecting thereof;
5. Name of the bidder fulfilling all the conditions set out in the public announcement and bidding documentation and specified criteria, along with the proposal to award the license to the most favourable bidder and/or winner of the public auction, along with the reasons for selecting their bid.

## **License issuance**

### **Article 19**

Upon the completed procedure of the selection of the most favourable bid, defined by the decision on initiating the license issuance procedure, the Agency Managing Board shall adopt the decision on license issuance or non-issuance.

On the ground of the decision referred to in paragraph 1 herein, the Managing Board shall issue the license to the most favourable bidder and/or the winner of the public auction.

The license shall include the information and conditions stipulated under Article 39 of the Law.

The License shall be signed by the Chairman of the Agency Managing Board.

## **Notification on the adopted decision on license issuance or non-issuance**

### **Article 20**

Notification on the adopted decision on license issuance or non-issuance shall be submitted to all participants in the public bidding and shall be publically announced.

## **Record keeping and archiving**

### **Article 21**

Records shall be kept on each phase of the license issuance procedure.

All written documentation in the license issuance procedure shall be archived and kept in line with the applicable rules regulating the area of documentary materials and archives.



## **Closing provision**

### **Article 22**

These Instructions shall enter into force on the eighth day following its publication in the *Official Gazette of the Republic of Serbia*.

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Belgrade, 24 March 2008

Chairman of the  
Managing Board

Prof. Dr. Jovan Radunovic